

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In Re:

Bankr..No. 12-40649

Mathew Lyle Penning
SSN: XXXX-XX-7903

Chapter 7

Tammi Lynn Penning
SSN: XXX-XX-9182

MODIFIED CHAPTER 13 PLAN

Debtor(s).

Payments by Debtor to Trustee: Debtor will pay the Trustee \$ 315.00 per month for 60 months (the “plan term”), for a total of \$ 18,900.00. Debtors will also turn over to the Trustee 100% of their Federal Income Tax refunds, after any statutory off-set by the IRS, for the tax years 2012, 2013, 2014, 2015 & 2016. Debtor will make the first payment on January 15, 2013 and the last payment on December 15, 2017.

2. Payments by Trustee to Creditors: After deducting his 10% fee the Trustee will make the following payments, beginning the first month following confirmation of this plan (month “1”):

a. Priority Claims:

Creditor	Claim	Interest	Payment	Months	Total
Harry A. Engberg Debtors' Attorney (estimated)	\$1,000.00	0%	\$ 283.50	3.53	\$1,000.00

This priority claim will not be paid until Attorney Engberg files an application for compensation and reimbursement and the Court approves that application. The actual amount of the monthly payment will be calculated based on the Court's separate order awarding compensation and reimbursement. If the Court awards fees that total less than the above estimate, unsecured creditors may ultimately receive a distribution that is more than the estimate shown below. If the Court awards fees that total more than the above estimate, Debtors may file a motion to modify their confirmed plan to provide for those additional fees. If that modification is approved, unsecured creditors may receive a distribution that is less than what is set forth in this plan.

b. Other Priority Claims:

Creditor	Claim	Interest	Payment	Months	Total
None					

c. Secured Claims in Default:

Creditor	Default	Interest	Payment	Months	Total
Ally Bank	Plan to turn over security a 2007 GMC Yukon to creditor				

d. Unsecured, Non-priority Claims: After making the payments to priority and secured creditors described above, the Trustee will distribute the balance of the payments by the Debtor to the unsecured creditors, other than non-dischargeable student loans, who timely file a proof of claim. If an unsecured creditor receives appropriate notice of the case, but fails to timely file a proof of claim, that unsecured claim will be discharged to the extent set forth in 11 USC 1328(a) when the Debtor completes all plan payments. If all unsecured creditors known to the Debtor timely file proof of claims, each unsecured creditor will be paid approximately 100.0 % of its claim.

3. Direct Payment of Unimpaired Secured Claims: Debtors will make all required payments on the following unimpaired secured claim(s) until paid in full according to the terms of the original agreement(s) between Debtors and the creditor(s).

Creditor	Claim	Payment	Frequency
EverHome Mortgage	\$317,675.57	\$2,298.01	Monthly
MinWest Bank	\$37,798.05	\$330.00	Monthly
Debt secured by home			
Wells Fargo Financial Bank	\$ 500.00	\$41.67	Monthly
Debt secured by appliances			
John Deere Financial	\$ 4,516.00	\$125.45	Monthly
Debt secured by lawn mower for 5 acre lawn			

4. Impaired Secured Claims:

Capital One/Best Buy	\$2,460.36	\$52.00	Monthly
This claim is secured by a Apple Computer and is under secured.			
Capital One/Helzberg Diamonds	\$1,825.06	\$ 50.00	Monthly
This claim is secured by a diamond ring and is under secured.			

The Debtors will turn over the security for both of these Capital One debts in full settlement of the secured debt. Any remaining debt will be discharge.

Secured Payments Through the Trustee: The Trustee shall make the following payments out of the funds paid to him by the Debtors.

Creditor	Claim	Payment	Frequency
None			

5. **Unsecured Non-dischargable Student Loans:** Mrs. Penning has deferred student loans with AES and Direct Loan Servicing. These loans shall remain in a deferred status and shall not be treated with the other unsecured creditors. These creditors shall not receive any plan payments during the length of the plan.

6. **Payments Disbursements by Trustee:** The Trustee shall disburse available funds first to all scheduled installments in the following order: administrative expenses, including attorney fees and unsecured priority claims.

7. **Disposable Income:** Debtor pledges that all of the Debtor's disposable income to be received in the 60 month period beginning December 4, 2012 shall be applied to make payments under this plan. The Debtor's Federal Tax refunds for 2012-2016 shall committed to the payment under 2(d).

8. **Other provisions:** Debtor agrees to timely file all post-petition federal, state and local tax returns, and to pay all post-petition taxes as they become due.

9. **Attachments:** Attached hereto and incorporated herein by reference is a liquidation analysis that demonstrates that creditors will receive as much or more than they would if Debtors' non-exempt assets were liquidated in a chapter 7 bankruptcy.

Dated: January 15, 2013

/s/ Mathew Lyle Penning
Debtor

/s/Tammi Lynn Penning
Debtor

ENGBERG LAW OFFICE, Prof. LLC

/s/ Harry A. Engberg
Attorney for Debtors
300 N. Dakota Ave., Ste:601
Sioux Falls SD 57104
Phone 605 271-8848

SUMMARY AND ANALYSIS OF PLAN PAYMENTS TO BE MADE BY TRUSTEE

A. Total debt provided under the Plan and administrative expenses:

1. Attorney Fees	\$1,000.00
2. Secured Claims	\$ 402,208.00
3. Priority Claims	\$ 0.00
4. Separate Class of Unsecured Claims	
5. All other unsecured Creditors	\$17,046.00
Total payments to above Creditors	\$ 17,046.00
Trustee percentage	\$ 1,704.60
Total Debtors' payments to the Plan	\$ 18,750.60

B. Reconciliation with Chapter 7

1. Interest of unsecured creditors if Chapter 7 filed	
a. Total property of Debtor	\$ 322,000.00
b. Property securing debt	\$ 312,000.00
c. Exempt Property	\$ 10,000.00
d. Priority unsecured claims	\$0.00
e. Funds for Chapter 7 distribution (est)	\$000.00
2. Percent of unsecured, non-priority claims paid under Plan	100%
3. Percent of unsecured, non priority claims paid if Chapter 7 filed (est)	0%